UNITED STATES PATENT AND TRADEMARK OFFICE

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EXAMINER
MEJIA, ANTHONY

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>20 July 2009</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-8 and 10-19</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1-8 and 10-19</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>03 August 2004</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☒ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application

6)☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the

fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection.

Since this application is eligible for continued examination under 37 CFR 1.114,

and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the

previous Office action has been withdrawn pursuant to 37 CFR 1.114.

Applicants' submission filed on **20 July 2009** has been entered.

Response to Amendments

2.   It is hereby acknowledged that Claims 9 and 20 have been canceled,

Claims 1-5, 7, 10-13, 15, and 18 have been amended, and are pending along

with Claims 6, 8, 14, and 16-17 in the instant application.

Response to Arguments

3.   Applicant's arguments, with respect to Claims 1-8, and 10-17 filed **20 July**

2009 have been fully considered but are deemed moot in view of the following

new grounds of rejection, necessitated by Applicant's substantial amendments to

the claims which significantly affected the scope thereof (emphasis added).

4.   Applicant's arguments filed **20 July 2009** with respect to Claims 18-19

have been fully considered but they are not persuasive. Applicants argue in

pages 14-15 of Remarks, that Penfield et al. (US 6,058,173) (referred herein

after as Penfield) does not teach the claim limitations for: "extracting Service

Provider per minute compensation rate from a System Database" or "determining

total minutes said User can connect to a Service Provider until said User's

account balance reaches zero". In further, Applicants argue that Penfield does

not teach or suggest use within a system of multiple providers with carrying call

rates or the use of various Service Providers and that the use of variable rates

associated with a plurality of Service Providers is neither taught nor suggested

for the billing system of Penfield to be used in combination.

As to the arguments above, Examiner agrees with Applicant in that

Penfield is silent in teaching the limitation for: "extracting Service Provider per

minute compensation rate from a System Database", and relies on newly

discovered reference Faber et al. (US 2002/0010608) (referred herein after as

Faber) (see Office Action Below). Also, as to the additional arguments above, in

that Penfield does not teach the claim limitations for: "determining total minutes

said User can connect to a Service Provider until said User's account balance

reaches zero" and that Penfield does not teach or suggest use within a system of

multiple providers with carrying call rates or the use of various Service Providers

and that the use of variable rates associated with a plurality of Service Providers

is neither taught nor suggested for the billing system of Penfield to be used in

combination, Examiner respectfully disagrees. Penfield clearly teaches the

limitation of:

determining total minutes said User can connect to said Service provider

(service provider's platform) until said User's account balance reaches zero

(Penfield: abstract, col.1, lines 45-58, col.2, lines 1-11, col.3, lines 55-67, col.4, lines 1-7, and col.6, lines 6-11);

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Penfield in the Faber/Lurie 1 system in order to properly determine how long a user can connect to a service provider. One of ordinary skill in the art would have been motivated to combine the teachings of Faber/Lurie 1 and Penfield to ensure that all calls for a given subscriber does not exceed the available balance on a subscriber's account in real-time (Penfield: col.1, lines 36-43) (*see* Office Action Below).

Applicant's is reminded the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.,* 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). Examiner is individually relying on the Penfield reference for teaching the well-know claim limitation:

determining total minutes ***said User can connect to said Service provider until said User's account balance reaches zero*** (emphasis added).

Specification

4.   The use of the trademarks COMPUSERVE®, Prodigy®, AMERICAN ONLINE®, AT&T®, Verizon®, MICROSOFT WIDOWS®, MICROSOFT INTERNET EXPLORER®, NETSCAPE NAVIGATOR®, LYNX®, AND MOSAIC® has been noted in this application. It should be capitalized wherever it appears and be accompanied by

the generic terminology. Although the use of trademarks is permissible in patent

applications, the proprietary nature of the marks should be respected and every

effort made to prevent their use in any manner, which might adversely affect their

validity as trademarks.

Claim Rejections - 35 USC § 112

5.   The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and
> process of making and using it, in such full, clear, concise, and exact terms as to enable any
> person skilled in the art to which it pertains, or with which it is most nearly connected, to make
> and use the same and shall set forth the best mode contemplated by the inventor of carrying
> out his invention.

6.   Claims 1-18 are rejected under 35 U.S.C. 112, first paragraph, as failing to

comply with the written description requirement.

For example, Claim 1 recites in line 7: "...***said Internet platform not***

including or providing a voice mail service..." (emphasis added). This

negative limitation renders the claim indefinite because it is an attempt to claim

the invention by excluding what the inventors did not invent rather than distinctly

and particularly pointing out what they did invent. ***see* MPEP § 2163 - §**

2163.07(b) and § 2173.05(i).

Claims 2-18 are all rejected as to at least inheriting the same deficiency

thru their dependency to Claim 1.

Claim Rejections - 35 USC § 103

7.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

8.   Claims 1-8, and 10-17 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Faber and in further view of Lurie et al. (US 7,289, 623)

(referred herein after as Lurie 1).

Regarding Claim 1, Faber teaches a method of connecting two parties in

real time, the method comprising:

providing an Internet platform Wherein said Internet platform is an Internet

-based system used to initiate a live conversation with a Service Provider via a

telephone, computer, or other electronic mobile device over the Internet (pars

[0009-0012], [0027], and see fig.1);

providing communication between two or more parties via the Internet

platform (pars [0009-0012], [0027], and see fig.1);

said Internet platform not including or providing a voice mail service (e.g.,

Faber does not include or provide a voice mail service, pars [0009-0012], [0027],

and see fig.1);

generating a pop-up window with information about said Service Provider

pars [0009-0012], [0027], and see fig.5);

checking to see if the Service Provider is available (par [0031], and *see*

figs.7-9);

connecting said User with said Service Provider if available, via the

Internet platform (pars [0009-0012], [0027], and see fig.13);

initiating a first call to the User (pars [0009-0012], [0027], and see fig.13),

receiving a first phone call by the User at his desired phone number from

the Internet platform (pars[0009-0012], [0027], and see fig.13);

answering the first call by the User from the Internet platform (pars [0009-

0012], [0027], and see fig.13),

initiating a second call to the Service Provider in response to the

answered first call by the User, from the Internet platform (pars [0009-0012],

[0027]);

answering the second call from the Internet platform by the Service

Provider (pars [0009-0012], [0027]);

connecting the parties in a call via Internet platform (pars [0009-0012],

[0027]);

tracking call information during the duration of the call by the Internet

platform (pars [0009-0012], [0027] and *see* fig.12);

alerting said User if said Service Provider is not available (par [0031]), see

figs.7-9); and

prompting said User to send an email to the Service Provider if the

Internet platform determines said Service Provider is busy or unavailable (pars

[0009-0012], [0027], and see fig.7);

providing input means, via said Internet Platform, for the User to create

and send said email (pars [0009-0012], and [0027]); and

providing transaction settlement functions between two or more connected

parties via the Internet platform (pars [0009-0012], and [0027]).

Faber does not explicitly teach the step of:

having a User click on an Internet -based icon to initiate a live

conversation with a Service Provider.

However, Laurie in a similar field of endeavor discloses a system and

method for an on-line patch through including the step of:

having a User click on an Internet -based icon to initiate a live

conversation with a Service Provider (col.5, lines 11-23, and see fig.3).

One of ordinary skill in the art at the time the invention was made to

combine all of the teachings of Faber and Laurie in order to enable a user to click

on an icon to initiate a live conversation with a service provider. One of ordinary

skill in the art at the time the invention was made to make it more convenient for

users to reach out to service providers.

Regarding Claim 2, the combined teachings of Faber and Laurie teach the

method as described in claim 1 above. The combined teachings of Faber and

Laurie further teach wherein the method comprises the step of an Internet

platform having said pop-up window prompting said User to enter their phone

number to 10 make said connection providing means for making a connection

and transferring speech and text (Faber: pars [0009-0012], and [0027], and *see*

fig.1 and 13).

Regarding Claim 3, the combined teachings of Faber and Laurie teach the

method as described in claim 1 above. The combined teachings of Faber and

Laurie further teach wherein the method comprises the step of generating a

message for said the User in said a pop-up window via the Internet platform

when said Service Provider is not available (Faber: par [0031], see fig. 7-9).

Regarding Claim 4, the combined teachings of Faber and Laurie teach the

method as described in claim 1 above. The combined teachings of Faber and

Laurie further teach wherein the method comprises the step of

allowing said Service Provider to enter their hours of availability to be visually

displayed to Users via the Internet platform (Laurie: col.3, lines 57-62, and col.4,

lines 39-45).

Regarding Claim 5, the combined teachings of Faber and Laurie teach the

method as described in claim 1 above. The combined teachings of Faber and

Laurie further teach wherein the method comprises the step of displaying said

Service Provider's hours of availability within said a pop-up window via the

Internet platform (Laurie: col.4, lines 39-45, 61-67, and col.5, lines 1-9, lines 43-54).

Regarding Claim 6, the combined teachings of Faber and Laurie teach the method as described in claim 5 above. The combined teachings of Faber and Laurie further teach wherein the method comprises the step of denying said connection if a User tries to initiate a connection during the hours said Service Provider is scheduled to be not available (Laurie: col.5, lines 43-54).

Regarding Claim 7, the combined teachings of Faber and Laurie teach the method as described in claim 5 above. The combined teachings of Faber and Laurie further teach displaying in said a pop-up window via the Internet platform that said Service Provider is currently busy on another call if said Service Provider is currently on another system call (Laurie: col.4, lines 39-45, 61-67, and col.5, lines 1-9, lines 43-54).

Regarding Claim 8, the combined teachings of Faber and Laurie teach the method as described in claim 7 above. The combined teachings of Faber and Laurie further teach wherein the method comprises the step of further comprising denying said connection if a User tries to initiate a connection while said Service Provider is busy on another call (Faber: see figs.6-9).

Regarding Claim 10, the combined teachings of Faber and Laurie teach the method as described in claim 5 above. The combined teachings of Faber and Laurie further teach the step of including displaying a compensation rate in a pop-up window via the Internet platform, based on a period of time, for each Service Provider (Faber: see fig,12).

Regarding Claim 11, the combined teachings of Faber and Laurie teach the method as described in claim 1 above. The combined teachings of Faber and Laurie further teach the step of:

displaying a text link in a pop-up window via the Internet platform to a new pop up window displaying a Service Providers' profile and history of previous Users' feedback (Faber: *see* fig.6).

Regarding Claim 12, the combined teachings of Faber and Laurie teach the method as described in claim 1 above. The combined teachings of Faber and Laurie further teaches the step wherein the set of Service Providers is provided in response to a category selection via the Internet platform (Faber: *see* figs.3, 6, and 12).

Regarding Claim 13, the combined teachings of Faber and Laurie teach the method as described in claim 1 above. The combined teachings of Faber and Laurie further teach wherein the method comprises the step after the connection has ended, prompting said User to provide feedback on said Service Provider

regarding the quality of said Service Provider's service via the Internet platform

(Faber: par [0035] and *see* fig.6).

Regarding Claim 14, the combined teachings of Faber and Laurie teach

the method as described in claim 1 above. The combined teachings of Faber and

Laurie further teach wherein the method comprises the step of:

setting up an account for the Service Providers; and

crediting the account for an amount based upon how long the connection is

maintained (Faber: pars [0009-0012], and [0027], and see figs.4 and 12).

Regarding Claim 15, the combined teachings of Faber and Laurie teach

the method as described in claim 1 above. The combined teachings of Faber and

Laurie further teach wherein the method comprises the step of:

setting up an account for the Service Providers; and

crediting the account for an amount based upon how long the telephonic

connection is maintained minus a fee (Faber: pars [0009-0012], and [0027], and

see figs.4 and 12).

Regarding Claim 16, the combined teachings of Faber and Laurie teach

the method as described in claim 1 above. The combined teachings of Faber and

Laurie further teach wherein the method comprises the step of:

setting up a consumer account in the system for the User, wherein setting

up the consumer account includes obtaining credit card information from the

consumer (Faber: pars [0009-0012], and [0027], and *see* figs 4 and 12); and

allowing User to make a deposit to their consumer account (Faber: pars

[0009-0012], and [0027], and *see* figs 4 and 12).

Regarding Claim 17, the combined teachings of Faber and Laurie teach

the method as described in claim 1 above. The combined teachings of Faber and

Laurie further teach wherein the method comprises the step of:

monitoring how long the telephonic connection is maintained between said

User and said Service Provider (Faber: pars [0009-0012], and [0027], and *see*

figs 4 and 12); and

deducting from said User consumer account an amount based upon how

long the telephonic connection is maintained (Faber: pars [0009-0012], and

[0027], and *see* figs 4 and 12).

9.   Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Faber in further view of Laurie 1 and in further view of Penfield and in further

view of Olshansky (US 6,493,437).

Regarding Claim 18, the combined teachings of Faber in further view of

Laurie 1 teach the method as described in claim 1 above. The combined

teachings of Faber and Laurie 1 further teach further comprising:

extracting User real-time account balance information from a System

Database (Faber: pars [0009-0012], [0034-0035], and see figs. 6-9, and 12);

extracting Service Provider per minute compensation rate from the

System Database (Faber: pars [0009-0012], [0034-0035], and see figs. 6-9, and

12);

The combined teachings of Faber and Laurie 1 do not explicitly teach the

step of:

determining total minutes said User can connect to said Service provider

until said User's account balance reaches zero;

However, Penfield in a similar field of endeavor discloses a real-time

rating and debating system including the steps of:

dividing the User account balance total by the Service provider per minute

compensation rate (Penfield: abstract, col.1, lines 23-58, col.2, lines 1-11, col.3,

lines 55-67, col.4, lines 1-7, and col.6, lines 6-11);

determining total minutes said User can connect to said Service provider

until said User's account balance reaches zero (Penfield: abstract, col.1, lines 45-

58, col.2, lines 1-11, col.3, lines 55-67, col.4, lines 1-7, and col.6, lines 6-11);

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to utilize the teachings of Penfield in the Faber/Lurie 1

system in order to properly determine how long a user can connect to a service

provider. One of ordinary skill in the art would have been motivated to combine the teachings of Faber/Lurie 1 and Penfield to ensure that all calls for a given subscriber does not exceed the available balance on a subscriber's account in real-time (Penfield: col.1, lines 36-43).

The combined teachings of Faber/Lurie 1 and Penfield do not explicitly teach the steps of:

displaying this information to said User textually in pop-up window the moment before said User connects to said Service provider; and

displaying a graphical timer in said pop-up window, once said User connects to said Service provider, begins counting down the minutes remaining for the User to be connected to the Service provider until said User's account balance is depleted and correspondingly their connection terminated.

However Olshansky in a similar field of endeavor discloses an advertising subsidized PC telephony including the steps of:

displaying this information to said User textually in pop-up window the moment before said User connects to said Service provider (Olshansky: col.1, lines 33-41, and col.5, lines 10-24); and

displaying a graphical timer in said pop-up window, once said User connects to said Service provider, begins counting down the minutes remaining for the User to be connected to the Service provider until said User's account balance is depleted and correspondingly their connection terminated (Olshansky: col.5, lines 26-31).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to utilize the teachings of Olshansky in the combined

teachings of Faber/Lurie 1/Penfield to provide a graphical interface displaying

real-time information of the user's account balance in real-time. One of ordinary

skill in the art at the time the invention was made would have been motivated to

combine the teachings of Faber/Lurie 1/Penfield/Olshansky to enhance the

interaction of the user of the system by providing graphical-interface displaying

information of the connection with the service provider in real-time.

9.   Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Faber in further view of Lurie 1 in further view of Penfield in further view of

Olshansky and yet in further view of Ling (US 5,577,100) (referred herein after as

Ling).

Regarding Claim 19, the combined teachings of Faber/Lurie

1/Penfield/Olshansky teach the method as described in claim 18 above. The

combined teachings of Faber/Lurie 1/Penfield/Olshansky do not explicitly teach

wherein the method comprises a hypertext link in a pop-up window via the

Internet platform directing Users to make a deposit to their account.

However, Ling in a similar field of endeavor discloses a system and

method for conducting electronic commerce transactions requiring micro

payments including the step wherein a hypertext link in said pop-up window

directing Users to make a deposit (e.g., add funds) to their account (par [0166], 275, fig.11).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the teachings of Ling in the combined teachings of Faber/Lurie 1/Penfield/Olshansky in order to be able to allow the users to have an easily accessible way of being able to add additional funds to their accounts. One of the ordinary skill in the art at the time the invention was made would have been motivated to combine the teachings of Faber/Lurie 1/Penfield/Olshansky /Ling to help satisfy the demand and needs for people that require services such as expert advice from Service Providers that are available on the system.

Conclusion

Examiner has cited particular paragraphs, columns, and line numbers in the references applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY MEJIA whose telephone number

is (571)270-3630. The examiner can normally be reached on Mon-Thur 9:30AM-

8:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the

examiner's supervisor, John Follansbee can be reached on 571-272-3964. The

fax phone number for the organization where this application or proceeding is

assigned is 571-273-8300.

Information regarding the status of an application may be obtained from

the Patent Application Information Retrieval (PAIR) system. Status information

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free). If you would like assistance from a USPTO Customer Service

Representative or access to the automated information system, call 800-786-

9199 (IN USA OR CANADA) or 571-272-1000.

/A.M./   /Salad Abdullahi/
Patent Examiner, Art Unit 2451   Primary Examiner, Art Unit 2457